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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,607	10/29/2003	Scott Kay	17181.003	9622
54205	7590	10/19/2005		
CHADBOURNE & PARKS LLP 30 ROCKEFELER PLAZA NEW YORK, NY 10112			EXAMINER BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/697,607

Applicant(s)

KAY, SCOTT

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 12, 2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 9-11, 14-18, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madsen (US 1794384) in view of Conkey (US 1134994).

Madsen (figures 1-5) teaches a locking toggle clasp assembly for releasably coupling opposing terminal portions of a necklace comprising: a toggle bar 12 connected to a first terminal portion of the necklace; and a toggle clasp 11 connected to a second terminal portion of the necklace, the toggle clasp having an opening, wherein the toggle clasp is selectively movable between an open position, figure 4, in which the toggle bar may pass through the opening and a locked position, figures 1 and 2, in which the toggle bar is prevented from passing through the opening in the toggle loop 13 by the swivel 14. The swivel includes disk 16 that extends from a position as shown in figure 5 with the toggle loop 13 of a first size that permits the toggle bar to

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extend through the toggle loop to a position in which it pivots downwardly with the portion adjacent the pivot 15 impinging into the toggle loop to reduce the opening in the toggle loop to a second size that prevents the toggle bar from passing through. Inherently, the device of Madsen can have the chain pulled through and the disk engage the chain, not the toggle bar. Figure 2 clearly shows the opening in the toggle loop reduced in size and the toggle bar will not pass through the toggle loop opening. The difference is that the disk is not sized so as to permit the chain to clearly extend therethrough. However, Conkey (figures 1, 2) suggests locking toggle clasp assembly structure for a chain, wherein the chain links act as toggles and the disk 2 has a slot 5 so as to permit the chain to pass therethrough so as to permit adjustment. As it would have been beneficial to make the toggle clasp of Madsen clearly adjustable, it would have been obvious to provide the disk of the device of Madsen with a notch as taught by Conkey so that the chain can be adjusted in circumference, a beneficial result while permitting the disk to move within the loop. Claims 16 and 22 are similar claims and rejected for the reasons given above. In regard to method claim 20, the desirability of making the assembly of Madsen adjustable by providing a notch in the disk as suggested by Conkey renders the subject matter obvious for similar reasons to those given above.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madsen (US 1794384) in view of Conkey (US 1134994) as applied to claim 1 above, and further in view of Fox (US 2004/0139586).

Further modification of the assembly of Madsen such that the necklace fastener of Madsen is used upon a bracelet would have been obvious in view of Fox teaching that necklace fasteners are readily usable for other purposes such as bracelets [0036].

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Claims 8, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madsen (US 1794384) in view of Conkey (US 1134994) as applied to claims 3, 17 and 20 above, and further in view of Katz (US 5410784).

Further modification of the assembly of Madsen such that a friction lock is used to lock the swivel in the closed position would have been obvious since friction is a common expedient to secure a locking lever in the jewelry art and Katz (figures 1, 2, 4) teaches that friction between the body 2 and latch 22 is used to hold the pivoted latch 22 in place (col. 4, lines 14-18) in the jewelry art.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's amendment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB